

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA**

\_\_\_\_\_  
**THE UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

\_\_\_\_\_  
**JOHN MORRELL & Co.**

**Defendant.**  
\_\_\_\_\_

**Case 4:11-cv-04143-LLP**

**JOINT STIPULATION TO TERMINATE CONSENT DECREE**

Plaintiff United States of America, acting on behalf of the Environmental Protection Agency ("EPA"), and Defendant John Morrell & Co. ("JMC") (collectively, "the Parties"), respectfully move the Court to terminate the Consent Decree entered as a final judgment in this matter, on November 22, 2011 ("Consent Decree"). On January 24, 2013, JMC served a Request for Termination upon the United States in accordance with Section XVI (Termination), Paragraph 62 of the Consent Decree. The United States concurs with JMC's assessment that it has satisfactorily complied with the requirements for termination. Thus, the Parties file this joint stipulation to terminate the Consent Decree.

**I. BACKGROUND**

JMC owns and operates the JMC Facility, a slaughterhouse and meatpacking facility.<sup>1</sup> The JMC Facility employs a refrigeration system, which uses anhydrous ammonia, a regulated substance, as a refrigerant. At the time of the Consent Decree, the JMC Facility's Risk

<sup>1</sup> JMC is a Delaware corporation that maintains its corporate offices in Cincinnati, Ohio. JMC wholly owns and operates the JMC Facility, which is located at 1400 North Weber Avenue, Sioux Falls, South Dakota, 57103.

Management Plan indicated that JMC used over 390,000 pounds of ammonia throughout the system.

EPA alleged that, during a two-part Inspection that occurred in December 2009 and April 2010, EPA identified violations of the Chemical Accident Prevention Provision of Section 112(r)(7) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(7), and its implementing regulations, 40 C.F.R. Part 68. On October 6-7, 2011, the United States filed its Complaint and noticed the lodging of the Consent Decree, which resolved these alleged CAA violations.

## **II. TERMINATION PROCEDURES**

The Consent Decree provides for termination by Court order. According to Section XVI (Termination), Paragraphs 62-63, the Parties may enter a joint stipulation terminating the Consent Decree after the following has occurred:

- a. JMC has completed the requirements of Section V (Compliance and Reporting Requirements);
- b. JMC has paid the civil penalty and any accrued stipulated penalties as required by the Consent Decree;
- c. JMC has served upon the United States a Request for Termination, stating that JMC has satisfied those requirements, and provided all necessary supporting documents;
- d. The Parties have conferred informally concerning the Request for Termination; and
- e. The United States agrees that the Consent Decree may be terminated.

Consent Decree ¶¶ 62-63.

JMC has fulfilled the requirements of the Consent Decree as outlined above. JMC complied with the requisite provisions of Section V (Compliance and Reporting Requirements), which included conducting a comprehensive review of its piping systems and pressure vessel,

labeling all piping and valves, and testing all pressure vessels in accordance with industry standards, as well as additional reporting requirements. JMC paid the stated civil penalty of \$206,000 and did not accrue any stipulated penalties under the Consent Decree. No payments are outstanding or owed to the United States. On January 24, 2013, JMC served upon the United States a Request for Termination and attached all necessary supporting documents. The Parties have conferred informally regarding the request and the United States has agreed that the Consent Decree may be terminated.

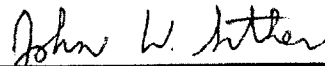
### **III. REQUEST FOR TERMINATION**

Accordingly, the Parties respectfully request that the Court declare the Consent Decree terminated, by executing the accompanying proposed Order.

Respectfully submitted,

For the Plaintiffs,

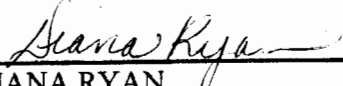
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Environment and Natural Resources  
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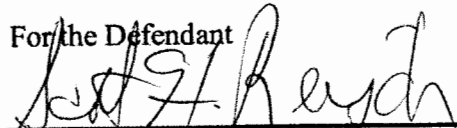
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